

JOSEPH P. RUSSONIELLO (CSBN 44332)
United States Attorney

BRIAN J. STRETCH (CSBN 163973)
Chief, Criminal Division

JEFFREY B. SCHENK (CSBN 234355)
Assistant United States Attorneys

150 Almaden Boulevard, Suite 900
San Jose, California 95113
Tel: (408) 535-2695 or
Fax: (408) 535-5066 (facsimile)
Jeffrey.b.schenk@usdoj.gov

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,)	No. 08-70128 (RS)
)	
Plaintiff,)	
)	[PROPOSED] ORDER TO CONTINUE
vs.)	PRELIMINARY HEARING OR
)	ARRAIGNMENT
JOSEPH ANTHONY MOORE,)	
)	
Defendant.)	
_____)	

This matter was called for a detention hearing on March 14, 2008. Counsel for the United States, Jeff Schenk, Assistant United States Attorney, and defendant Joseph Anthony Moore, and his counsel Bob Carey, were present. At the hearing, the defendant was advised and stated that he understood that under Rule 5.1(c) of the Federal Rules of Criminal Procedure he is entitled to a preliminary hearing within 10 days of his initial appearance as an in-custody defendant unless an indictment is filed, and that pursuant to 18 U.S.C. § 3161(b) he is entitled to be indicted within 30 days of his arrest in this matter. After consultation with his attorney, the defendant stated that he wished to waive those rights and continue the hearing set for preliminary

1 hearing or indictment until April 17, 2008.

2 At the conclusion of the hearing, and at the request of the parties, the Court ruled as
3 follows:

4 IT IS HEREBY ORDERED that this case is continued to April 17, 2008 at 9:30 a.m. for
5 a preliminary hearing or arraignment.

6 IT IS FURTHER ORDERED that the period of time from March 14, 2008 through and
7 including April 17, 2008 shall be excluded from the period of time within which an indictment or
8 information must be filed under the Speedy Trial Act, 18 U.S.C. § 3161(b), pursuant to Title 18,
9 United States Code, Section 3161(h)(8)(A), considering the factors set forth in Section
10 3161(h)(8)(B). The Court finds that the ends of justice served by this continuance outweigh the
11 best interests of the public and the defendant in a speedy trial for the following reasons: The
12 parties require the additional time to exchange discovery and to discuss a potential resolution of
13 the case prior to indictment. The exclusion of time is therefore required for effective preparation
14 of counsel.

IT IS FURTHER ORDERED that the period of time for a preliminary hearing is extended under Federal Rule of Criminal Procedure 5.1(d), until April 17, 2008 based on the defendant's consent and based on the parties' showing of good cause as set forth above.

For the foregoing reasons, the Court finds that the interests of justice in granting this continuance outweigh the defendant's and the public's interests in a speedy trial.

JOSEPH P. RUSSONIELLO
United States Attorney

Dated: March 14, 2008

_____/s/_____
JEFF SCHENK
Assistant U.S. Attorney

Dated: March ___, 2008

_____/s/_____
BOB CAREY
Counsel for Joseph Anthony Moore

IT IS SO ORDERED.

DATED:

NANDOR J. VADAS
UNITED STATES MAGISTRATE JUDGE